

HOUSE BILL 1253

J2, C4

0lr2807

By: **Delegates Manno and Feldman**

Introduced and read first time: February 18, 2010

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Physicians – Professional Liability Coverage – Proof and Notification**

3 FOR the purpose of requiring physicians who perform certain services in the State in
4 certain settings to provide verification or other documentation of professional
5 liability insurance or other certain coverage as a condition of licensure;
6 authorizing the State Board of Physicians to take certain actions if verification
7 or other documentation of insurance or coverage is not provided as required by
8 this Act; authorizing the Board to conduct certain audits for certain purposes;
9 requiring physicians licensed to practice medicine in the State to notify patients
10 in writing and on each visit of certain information relating to professional
11 liability insurance or coverage; requiring certain physicians to maintain certain
12 records and post certain information in their place of practice; requiring the
13 Board to develop certain language for a certain notice requirement; defining
14 certain terms; providing for the application of certain provisions of this Act;
15 providing for the construction of certain provisions of this Act; and generally
16 relating to physicians and professional liability coverage.

17 BY repealing and reenacting, with amendments,
18 Article – Health Occupations
19 Section 14–316
20 Annotated Code of Maryland
21 (2009 Replacement Volume)

22 BY adding to
23 Article – Health Occupations
24 Section 14–508
25 Annotated Code of Maryland
26 (2009 Replacement Volume)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health Occupations

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14–316.

(a) (1) The Board shall provide for the term and renewal of licenses under this section.

(2) The term of a license may not be more than 3 years.

(3) A license expires at the end of its term, unless the license is renewed for a term as provided by the Board.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by first-class mail to the last known address of the licensee:

(1) A renewal notice that states:

(i) The date on which the current license expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(iii) The amount of the renewal fee; and

(2) A blank panel data sheet supplied by the Health Care Alternative Dispute Resolution Office.

(c) Before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license renewal.

(d) (1) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

1 (2) In establishing these requirements, the Board shall evaluate
2 existing methods, devices, and programs in use among the various medical specialties
3 and other recognized medical groups.

4 (3) The Board may not establish or enforce these requirements if they
5 would so reduce the number of physicians in a community as to jeopardize the
6 availability of adequate medical care in that community.

7 (4) The Board may impose a civil penalty of up to \$100 per continuing
8 medical education credit in lieu of a sanction under § 14-404 of this title, for a first
9 offense, for the failure of a licensee to obtain the continuing medical education credits
10 required by the Board.

11 (e) The Board shall renew the license of each licensee who meets the
12 requirements of this section.

13 (f) (1) Each licensee shall notify the secretary of the Board in writing of
14 any change in the licensee's name or address within 60 days after the change.

15 (2) If a licensee fails to notify the secretary of the Board within the
16 time required under this section, the licensee is subject to an administrative penalty of
17 \$100.

18 **(G) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**
19 **THE MEANINGS INDICATED.**

20 **(II) "FREESTANDING AMBULATORY CARE FACILITY" HAS**
21 **THE MEANING STATED IN § 19-3B-01 OF THE HEALTH - GENERAL ARTICLE.**

22 **(III) 1. "SURGICAL SERVICES" MEANS ANY INVASIVE**
23 **PROCEDURE, WHETHER THERAPEUTIC OR DIAGNOSTIC, INVOLVING THE USE OF:**

24 **A. MICROSCOPIC, ENDOSCOPIC, ARTHROSCOPIC, OR**
25 **LAPAROSCOPIC EQUIPMENT; OR**

26 **B. A LASER FOR THE REMOVAL OR REPAIR OF AN**
27 **ORGAN OR OTHER TISSUE.**

28 **2. "SURGICAL SERVICES" DOES NOT INCLUDE**
29 **OUTPATIENT SERVICES THAT:**

30 **A. ARE LIMITED TO THE SKIN AND MUCOUS**
31 **MEMBRANES;**

32 **B. DO NOT EXTEND DEEPER THAN THE SKIN AND**
33 **MUCOUS MEMBRANES; AND**

1 C. ARE PERFORMED WITH LOCAL OR TOPICAL
2 ANESTHESIA.

3 (2) (I) THIS SUBSECTION APPLIES TO A LICENSED PHYSICIAN
4 WHO PERFORMS OUTPATIENT SURGICAL SERVICES IN A FREESTANDING
5 AMBULATORY CARE FACILITY IN THE STATE.

6 (II) THIS SUBSECTION MAY NOT BE CONSTRUED TO APPLY
7 TO, OR TO PREVENT THE RENDERING OF, EMERGENCY MEDICAL SERVICES BY A
8 LICENSED PHYSICIAN IN ACCORDANCE WITH § 5-603 OF THE COURTS ARTICLE.

9 (3) EACH PHYSICIAN WHO IS SUBJECT TO THIS SUBSECTION
10 SHALL PROVIDE THE BOARD WITH VERIFICATION OR OTHER DOCUMENTATION
11 APPROVED BY THE BOARD THAT THE PHYSICIAN MAINTAINS PROFESSIONAL
12 LIABILITY INSURANCE OR IS COVERED BY THE FEDERAL TORT CLAIMS ACT OR
13 THE MARYLAND TORT CLAIMS ACT:

14 (I) ON THE PHYSICIAN'S APPLICATION FOR AN INITIAL
15 LICENSE UNDER § 14-309 OF THIS SUBTITLE AND FOR RENEWAL OR
16 REINSTATEMENT OF A LICENSE UNDER THIS SECTION AND § 14-317 OF THIS
17 SUBTITLE; AND

18 (II) AT ANY OTHER TIME ON REQUEST OF THE BOARD.

19 (4) IF A LICENSEE FAILS TO SUBMIT VERIFICATION OR OTHER
20 DOCUMENTATION AS REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION,
21 THE BOARD SHALL PROVIDE THE LICENSEE WITH NOTICE AND THE LICENSEE
22 SHALL BE SUBJECT TO DISCIPLINE BY THE BOARD UNDER §§ 14-404 AND
23 14-405.1 OF THIS TITLE.

24 (5) IN ACCORDANCE WITH GUIDELINES ADOPTED BY THE BOARD,
25 THE BOARD MAY ENFORCE THIS SUBSECTION BY AUDITING RANDOMLY A
26 PORTION OF THE LICENSEES SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION
27 TO DETERMINE COMPLIANCE WITH THAT PARAGRAPH.

28 (6) IN ADDITION TO ANY OTHER AVAILABLE PENALTY, AN
29 APPLICANT FOR INITIAL LICENSE OR FOR RENEWAL OR REINSTATEMENT OF A
30 LICENSE WHO PROVIDES FALSE VERIFICATION OR DOCUMENTATION OF
31 INSURANCE OR COVERAGE IF REQUIRED FOR THE APPLICANT UNDER
32 PARAGRAPH (3) OF THIS SUBSECTION SHALL BE SUBJECT TO DISCIPLINE BY
33 THE BOARD UNDER §§ 14-404 AND 14-405.1 OF THIS TITLE.

34 14-508.

1 **(A) EACH LICENSEE PRACTICING MEDICINE IN THE STATE SHALL**
2 **NOTIFY A PATIENT IN WRITING AND ON EACH VISIT IF:**

3 **(1) THE LICENSEE DOES NOT MAINTAIN PROFESSIONAL**
4 **LIABILITY INSURANCE OR COVERAGE; OR**

5 **(2) THE LICENSEE'S PROFESSIONAL LIABILITY INSURANCE OR**
6 **COVERAGE HAS LAPSED FOR ANY PERIOD OF TIME AND THE LICENSEE'S**
7 **COVERAGE HAS NOT BEEN RENEWED.**

8 **(B) THE WRITTEN NOTIFICATION PROVIDED TO THE PATIENT UNDER**
9 **SUBSECTION (A) OF THIS SECTION MUST BE:**

10 **(1) SIGNED BY THE PATIENT AT THE TIME OF THE PATIENT'S**
11 **VISIT; AND**

12 **(2) RETAINED BY THE LICENSEE AS PART OF THE LICENSEE'S**
13 **PATIENT RECORDS.**

14 **(C) EACH LICENSEE PRACTICING MEDICINE IN THE STATE WHO DOES**
15 **NOT MAINTAIN PROFESSIONAL LIABILITY INSURANCE OR COVERAGE SHALL**
16 **POST CONSPICUOUSLY THAT INFORMATION IN THE LICENSEE'S PLACE OF**
17 **PRACTICE.**

18 **(D) THE BOARD SHALL DEVELOP APPROPRIATE LANGUAGE FOR THE**
19 **WRITTEN NOTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2010.